

Appl. No. 10/733,560
Docket No. AA554C
Amdt. dated November 6, 2006
Reply to Office Action mailed on August 4, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 1, 2, 4-10 are pending in the present application. No additional claims fee is believed to be due.

Claims 3 and 11-16 are withdrawn.

Claims 1 and 4 have been amended. Support for the amendments can be found in the specification, at, for example, page 6 *et seq.* and Figure 2.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Response to Requirement for Restriction of Inventions

The Examiner has required, under 35 USC §121, election of a single disclosed invention for prosecution on the merits. A provisional election without traverse was made via telephone on July 27, 2006 to prosecute the invention of Group A. This hereby confirms the election to prosecute the invention designated in the Office Action as Invention A. This election is made without traverse. Claims 1, 2, 4-10 are drawn to this invention.

Claims 3 and 11-16 have been canceled by this amendment as being drawn to a non-elected invention.

Rejection Under 35 USC §112, Second Paragraph

The Office Action has rejected Claims 1, 2, 4-10 under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed. However, Claims 1 and 4 have been amended. As such, Applicants respectfully submit that the rejection under 35 USC §112, second paragraph, is moot and should be withdrawn.

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Rejection Under 35 USC §101

Claims 1, 2, 4-10 have been rejected under 35 USC §101 as allegedly directed to non-statutory subject matter. The Office Action states that the claims "recite a series of steps which do not include a pre- or post-computer activity but merely perform a series of steps of receiving data and selecting an article, which can be understood as the steps performed by a computer." This rejection is respectfully traversed. However, Claims 1 and 4 have been amended to more specifically point out steps that include, for example, pre-computer activity. Therefore, Applicants respectfully submit that the rejection under 35 USC §101 is moot and withdrawal of the rejection is requested.

Rejection Under 35 USC §103(a) Over Hisanaka et al. (US 2002/0096182) in view of Teagarden et al. (US 6,014,631)

Claims 1, 2 and 10 have been rejected under 35 USC §103(a) as being unpatentable over Hisanaka et al. (US 2002/0096182) in view of Teagarden et al. (US 6,014,631). This rejection is respectfully traversed.

Applicants respectfully submit that the Office Action has failed to set forth a *prima facie* case of obviousness in accordance with M.P.E.P. 2143. Specifically, the Office Action has failed to provide evidence as to where in Hisanaka and/or Teagarden is a teaching or motivation to provide each element of the claimed invention and/or the claimed invention as a whole, such as, for example, a method for recommending a disposable absorbent incontinence article to be used by an incontinent person, comprising the steps of: inputting information from a user about incontinence devices which are currently used by the incontinent person, inputting information about the situation which is experienced by a user, selecting at least one article based on the information received among predetermined disposable absorbent incontinence articles, and recommending the at least one article to the user.

The Office Action states that Hisanaka does not disclose that the information includes information about incontinence devices that are currently used by the incontinent person. In addition, Applicants respectfully submit that the Office Action has not shown where Hisanaka teaches or suggests selecting at least one article, based on the information received, among predetermined disposable absorbent incontinence articles and/or

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recommending the at least one article to the user. Instead, Hisanaka is directed to a "method of evaluating and selecting an absorbent article using the cardiac rate fluctuation of the wearer as a measure." (Abstract). The method of Hisanaka is described as having a person wear an absorbent article, measuring the cardiac rate fluctuation while controlling the temperature and humidity at the interface of the skin and absorbent article, and measuring and calculating the cardiac rate fluctuation of the person while the person is wearing the absorbent article, such as, *e.g.*, by fast Fourier transformation. (Para. 39-61). Applicants respectfully submit that they do not see where Hisanaka teaches or suggests inputting information from a user about incontinence devices which are currently used by the incontinent person, inputting information about the situation which is experienced by the user, selecting at least one article, based on the information received, among predetermined disposable absorbent incontinence articles; and recommending the at least one article to the user. As such, Applicants respectfully submit that the Hisanaka does not teach or suggest the claimed invention.

The Office Action relies on Teagarden as teaching the claimed elements that Hisanaka does not disclose, such as, *e.g.*, that the information includes information about incontinence devices that are currently used by the incontinent person. Teagarden is directed to "a computer implemented and/or assisted process for controlling drug or health care spending and/or use while improving or maintaining the quality of care in a patient population." (Col. 1, lines 9-12). Applicants respectfully submit that they have reviewed the Office Action's citations to Teagarden and do not see where in the citations Teagarden teaches or suggests Applicants' claimed invention. Thus, Applicants respectfully submit that Teagarden does not cure the deficiencies of Hisanaka.

Furthermore, because Hisanaka is directed to a method of evaluating and selecting an absorbent article using the cardiac rate fluctuation of the wearer as a measure and Teagarden is directed to a computer implemented and/or assisted process for controlling drug or health care spending and/or use while improving or maintaining the quality of care in a patient population, Applicants submit that Hisanaka and Teagarden are not analogous to each other or to the problem addressed by Applicants' invention and cannot properly be combined. *See, e.g.*, M.P.E.P. 2141.01(a). In addition, the Office Action has failed to present any evidence that one ordinarily skilled in the art would have a reasonable expectation of success in achieving Applicants' invention in view of the

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combination of Hisanaka and Teagarden. Applicants respectfully submit that even assuming Hisanaka and Teagarden could be properly combined, Applicants' claimed invention, such as, *e.g.*, a method for recommending a disposable absorbent incontinence article to be used by an incontinent person, comprising the steps of inputting information from a user about incontinence devices which are currently used by the incontinent person, inputting information about the situation which is experienced by the user, selecting at least one article, based on the information received, among predetermined disposable absorbent incontinence articles, and recommending the at least one article to the user, would not result.

In view of the above, Applicants respectfully submit that the Office Action has not set forth a *prima facie* case of obviousness and withdrawal of the rejection under 35 USC §103(a) over Hisanaka in view of Teagarden is requested.

Rejection Under 35 USC §103(a) Over Hisanaka et al. (US 2002/0096182) in view of Teagarden et al. (US 6,014,631) and further in view of Snitkin (US 2003/0046111)

Claims 4-9 have been rejected under 35 USC §103(a) as being unpatentable over Hisanaka et al. (US 2002/0096182) in view of Teagarden et al. (US 6,014,631) and further in view of Snitkin (US 2003/0046111). This rejection is respectfully traversed.

Applicants respectfully submit that the Office Action has not set forth a *prima facie* case of obviousness with respect to the combination of Hisanaka, Teagarden, and/or Snitkin. As set forth above, the Office Action has not shown where Hisanaka in view of Teagarden teaches or suggests the claimed invention, such as, *e.g.*, a method for recommending a disposable absorbent incontinence article to be used by an incontinent person, comprising the steps of inputting information from a user about incontinence devices which are currently used by the incontinent person, inputting information about the situation which is experienced by the user, selecting at least one article, based on the information received, among predetermined disposable absorbent incontinence articles, and recommending the at least one article to the user. In addition, Applicants respectfully submit that they have reviewed the Office Action's citations to Snitkin (Figure 3d) and they do not see where in the citations Snitkin teaches or suggests Applicants claimed invention, including, for example, the limitations of Claims 4-9. Thus, Applicants respectfully submit that the Office Action has not shown where the combination of

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Hisanaka, Teagarden, and/or Snitkin teaches or suggests each and every element of the claimed invention.

Therefore, Applicants respectfully submit that the Office Action has not set forth a *prima facie* case of obviousness and withdrawal of the rejection under 35 USC §103(a) in view of Hisanaka, Teagarden, and Snitkin is requested.

Conclusion

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1, 2 and 4-10 is respectfully requested.

Respectfully submitted,

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By

Signature

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